

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Competitive Product Prices
GEPS 10 Contracts (MC2018-207)
Negotiated Service Agreements

Docket No. CP2020-157

PUBLIC REPRESENTATIVE COMMENTS

(June 8, 2020)

I. BACKGROUND

The Public Representative hereby provides comments pursuant to the Commission's Notice.¹ In that Notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Notice of the Postal Service of filing a functionally equivalent Global Expedited Package Service 10 Negotiated Service Agreement.²

In conjunction with its Notice the Postal Service filed supporting documents and supporting financial documentation. See Notice, Attachments 1-4. The Postal Service states that the contract will remain in effect until June 30, 2020,³ unless terminated sooner. Notice at 3. On May 4, 2020 Chairman's Information Request No. 1 was issued.⁴ The Postal Service's Responses are due June 11, 2020. *Id.*

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 1, 2020 (Notice).

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 10 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 29, 2020, at 1 (Request).

³ The Public Representative acknowledges that certain provisions in the contract could allow the contract to be extended, but the Postal Service's assertion in its Notice that "the contract will remain in effect until June 30, 2020, unless it is terminated sooner" implies that the Postal Service does not anticipate using those provisions within the next 21 days. Notice at 3.

⁴ Chairman's Information Request No. 1 and Notice of Filing Under Seal, June 4, 2020.

II. COMMENTS

As discussed in more detail below, the Public Representative concludes the instant GEPS 10 contract is functionally equivalent to the baseline agreement, and should not prohibit the GEPS 10 product, as a whole, from meeting the requirements of 39 U.S.C. § 3633(a). The Public Representative does note one concern related to the short duration of the agreement.

The Postal Service asserts that the instant GEPS 10 contract is substantially similar to the GEPS 10 baseline agreement, and shares the same cost and market characteristics as the GEPS 10 baseline agreement. Notice at 3-4. The Postal Service also identifies several differences between the instant and baseline agreements. Notice at 4-5. The Public Representative reviewed the materials filed underseal and agrees that the differences are not substantial, and that the instant contract is functionally equivalent to the baseline agreement.

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. The Public Representative has reviewed the financial workpapers and finds that the proposed rates for the instant GEPS 10 contract should generate sufficient revenues to cover cost and is consistent with the requirements of 39 U.S.C. § 3633(a).⁵

The Public Representative is concerned about the very short duration of this contract. At most, the contract will be in effect for 21 days. The financial workpapers demonstrate that the contract pieces will generate sufficient revenues to cover cost, but it does not appear that the workpapers include the specific administrative costs associated with the negotiation of the contract and the regulatory approval process.

⁵ The Public Representative believes that the response to CHIR No. 1, which is due three days after these comments are due, has the potential to impact the cost coverage of the instant contract. Therefore, the Commission must ensure that the impact is not significant enough to threaten the contract's ability to generate sufficient revenues to recover attributable costs consistent with 39 U.S.C. § 3633(a).

While these costs are likely to be minimal, the Public Representative believes that a contract of such a short duration may not be able to recoup even the minimal costs associated with the negotiation and approval process. Therefore, the Public Representative recommends that, in the future, the Postal Service certify that contracts of short duration, such as the instant contract, will produce sufficient contribution to recover administrative costs associated with the negotiation and approval processes of the contract.

The Public Representative, after reviewing all materials the Postal Service submitted under seal in this matter, recommends that the Commission approve the instant contract as a functionally equivalent contract within the GEPS 10 product.

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